

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Aaron Dukes)	
)	
Plaintiff,)	C.A. No. 9:09-cv-02484-JMC
)	
v.)	ORDER
)	
)	
Michael J. Astrue,)	
Commissioner of the Social Security)	
Administration,)	
)	
Defendant.)	
_____)	

Plaintiff filed the complaint in this action, *pro se*, pursuant to 42 U.S.C. § 405(g), seeking judicial review of the final decision of the Commissioner of the Social Security Administration (“Commissioner”) denying his claim for disability insurance benefits. Plaintiff filed two successive applications for disability insurance benefits, both of which were denied initially and upon reconsideration. Thereafter, following the hearings on these applications, the Administrative Law Judge (“ALJ”) denied Plaintiff’s claims in decisions issued on April 24, 2003 and on June 29, 2006. The ALJ’s decisions eventually became the final decisions of the Commissioner.

The Magistrate Judge’s Report and Recommendation [Doc.# 15], filed on January 5, 2011, recommends that the decision of the Commissioner be reversed, and that this case be remanded to the Commissioner for the purpose of obtaining vocational expert testimony in response to a proper hypothetical which encompasses all of Plaintiff’s limitations, and for such further administrative action as is deemed necessary and appropriate. *See Shalala v. Schaefer*, 113 S. Ct. 2625 (1993). The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge’s recommendation herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report and Recommendation [Doc. # 15, at 19]. However, Plaintiff filed no objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Doc. # 15]. Therefore, the Commissioner's decision is **REVERSED**, and this case is remanded to the Commissioner for review of this matter consistent with the recommendation of the Magistrate Judge.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
February 1, 2011